

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

NNN SIENA OFFICE PARK I 2, LLC, et al.,
 Plaintiffs,
 vs.
 WACHOVIA BANK NATIONAL
 ASSOCIATION, et al.,
 Defendants.

Case No. 2:12-cv-01524-MMD-PAL

ORDER

Before the court is Defendants' Supplemental Brief in Support of Holland & Hart's Request for Attorney's Fees (Dkt. #71).

At a hearing conducted September 3, 2013, the court granted in part and denied in part Holland & Hart's Motion to Compel (Dkt. #57) and granted defense counsel's request for sanctions. The court gave counsel for Holland & Hart an opportunity to file a supplemental brief detailing costs and fees incurred in filing the motion to compel in the event the parties were unable to resolve the issue concerning appropriate attorney's fees and costs sanctions via stipulation. This supplemental brief followed.

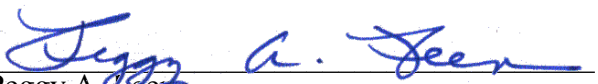
Holland & Hart seeks attorney's fees and costs in the amount of \$11,591.00 for the necessity of filing the motion to compel. The motion is supported by the declaration of Ryan Lower who attests that his hourly rate is \$255/hr. which is reasonable given his education, background, and nine years of experience. Two associates worked on this with him at hourly rates of \$200/hr. for Raleigh Thompson, and \$180/hr. for Hillary Walsh, which are averred to be reasonable rates for these attorneys' respective educational backgrounds and years of experience. The affidavit avers that Mr. Lower reviewed the firm's billing records and that they are correct to the best of his knowledge. 12.8 hours was spent reviewing Plaintiffs' deficient discovery responses, researching the law concerning the same, and

1 demanding that Plaintiffs properly respond to Defendants' discovery requests. Of that time, Mr. Lower
2 spent 9.3 hours and Ms. Walsh spent 3.5 hours. One hour was spent meeting and conferring with
3 Plaintiffs' counsel regarding Plaintiffs' deficient discovery responses. 33.6 hours was spent preparing
4 the motion to compel discovery responses and the reply, of which Mr. Lower spent 22.4 hours, and
5 associate attorney Thompson spent 11.2 hours. 1.5 hours were spent by Mr. Lower preparing for and
6 arguing the motion to compel.

7 Having reviewed and considered the matter, the court will award monetary sanctions in the
8 amount of \$3,012.50 for 7.5 hours of attorney Lower's time at the rate of \$255/hr. for six hours of
9 preparation of the motion to compel and reply, and 1.5 hours of preparing for and attending the hearing,
10 and four hours of attorney Thompson's time for assisting and preparing the motion to compel and reply.
11 The motion to compel in this case consists of 28 pages and raises a simple and straightforward legal
12 issue-- certain Plaintiffs' failure to respond to a request for a damages calculation, and supporting
13 documents. Nearly half of the motion to compel consists of a cut-and-paste insert of the discovery
14 requests and responses at issue. The time spent for reviewing the deficient Plaintiffs' deficient
15 responses, meeting and conferring, and attempts to resolve the dispute without court intervention is
16 time that would have been spent whether or not a motion to compel was filed, and required by the
17 Federal Rules of Civil Procedure. For these reasons,

18 **IT IS ORDERED** that Plaintiff's Supplemental Brief in Support of Holland & Hart's Request
19 for Attorney's Fees is **GRANTED in part** and **DENIED in part**. The motion is **GRANTED** to the
20 extent that attorney's fees in the amount of \$3,012.50 are awarded in favor of Holland & Hart against
21 the non-compliant Plaintiffs who were the subject of the motion to compel.

22 Dated this 18th day of December, 2013.

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25 Peggy A. Lier
26 United States Magistrate Judge
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